

1 UNITED STATES DISTRICT COURT  
2 CENTRAL DISTRICT OF CALIFORNIA  
3 WESTERN DIVISION

4 THE HONORABLE DALE S. FISCHER, JUDGE PRESIDING

5  
6 UNITED STATES OF AMERICA, )  
7 Plaintiff, )  
8 vs. ) NO. CR 22-175-DSF  
9 DAVID JOSEPH BUNEVACZ, )  
10 Defendant. )  
11 \_\_\_\_\_ )  
12  
13

14 REPORTER'S TRANSCRIPT ON APPEAL

15  
16 Los Angeles, California  
17 Monday, November 21, 2022, 9:12 A.M.

18  
19 Sentencing Hearing

20  
21 PAT CUNEO CSR 1600, CRR-CM  
22 Official Reporter  
23 First Street Courthouse  
24 350 West First Street  
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**APPEARANCES :**

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**United States Courthouse**  
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**Los Angeles, California   90012**

**FOR THE DEFENDANT:    CUAUHTOMAC ORTEGA**  
**FEDERAL PUBLIC DEFENDER**  
**BY:   JAMES S. THREATT, DEPUTY**  
**AND   DAVID WASSERMAN, DEPUTY**  
**321 East Second Street**  
**Los Angeles, California 90012**

1     **LOS ANGELES, CA., MONDAY, NOVEMBER 21, 2022; 9:12 A.M.**

2                             **-oOo-**

3             THE CLERK: Please remain seated and come to  
4     order. This United States District Court is again in  
5     session.

6             Case No. CR 22-175-DSF, United States of America  
7     v. David Joseph Bunevacz.

8             Please state your appearances.

9             MR. SCHWAB: Good morning, Your Honor.  
10    Alexander Schwab on behalf of the United States.

11            MR. THREATT: Good morning, Your Honor.  
12    James Threatt on behalf of David Bunevacz who is present in  
13    custody. I'm also joined at counsel table by  
14    David Wasserman.

15            THE COURT: Good morning.

16            MR. WASSERMAN: Good morning.

17            THE COURT: Good morning.

18            All right. Counsel, you can stay there or move to  
19    the lectern, whichever you prefer.

20            This is the time set for sentencing. I've read  
21    and considered the presentence report and the addendum and  
22    the objections and position papers of the parties.

23            I have also read and considered the numerous  
24    victim impact letters, the letters in support of the  
25    defendant, and defendant's own letter.

1           Mr. Threatt, have you had enough time to review  
2 those documents with your client?

3           MR. THREATT: I have, Your Honor.

4           THE COURT: Did you explain their contents to him?

5           MR. THREATT: I did.

6           THE COURT: Do you have any concerns about his  
7 ability to understand then?

8           MR. THREATT: I do not.

9           THE COURT: Mr. -- how do you pronounce your name,  
10 sir?

11          THE DEFENDANT: Bunevacz.

12          THE COURT: Mr. Bunevacz, did you get those  
13 documents?

14          THE DEFENDANT: Yes, Your Honor.

15          THE COURT: Did you read them?

16          THE DEFENDANT: Yes, Your Honor.

17          THE COURT: Do you need any more time to read  
18 them?

19          THE DEFENDANT: No, Your Honor.

20          THE COURT: Did your attorneys explain them to  
21 you?

22          THE DEFENDANT: Yes, they did, Your Honor.

23          THE COURT: Did you understand them?

24          THE DEFENDANT: Yes, Your Honor.

25          THE COURT: Is there anything you want to contest

1 or change, Mr. Threatt, in the presentence report other than  
2 what was submitted?

3 MR. THREATT: No, Your Honor.

4 THE COURT: Is there anything you'd like to  
5 present in mitigation?

6 MR. THREATT: Yes, Your Honor, and I would like to  
7 speak to the objection that we made to the presentence  
8 report.

9 THE COURT: All right.

10 MR. THREATT: Your Honor, I think the main legal  
11 dispute here with respect to the guidelines calculation is  
12 whether an additional two points should be added for  
13 substantial financial hardship to five or more victims; and,  
14 Your Honor, I'll go to the lectern if that's okay.

15 THE COURT: Certainly.

16 *(Pause in the proceedings.)*

17 MR. THREATT: Your Honor, we acknowledge the harm  
18 both financial and emotional that the victims have endured.  
19 However, whether they have suffered substantial financial  
20 hardship is a narrow legal question.

21 The guidelines already account for the aggregate  
22 loss in this case and the number of victims. To add these  
23 additional two points more is required than for individual  
24 victims have lost large sums of money.

25 The guideline, the commentary, the case law, all

1 make clear that the Court must consider the amount lost in  
2 light of each particular victim's individual circumstances.

3 The main Ninth Circuit case on this point is a  
4 useful example. In that case, *United States v. George*, the  
5 defendant had targeted already distressed homeowners by  
6 falsely claiming to operate a loan modification program.

7 As a result, the vast majority of the victims lost  
8 their homes and the Ninth Circuit upheld the application of  
9 the enhancements on those facts.

10 Here, however, we're dealing with a very different  
11 kind of scheme where the investors who were solicited were  
12 not people already on the verge of financial collapse or  
13 ruin.

14 With that in mind, the statements provided by the  
15 government generally lack sufficient specific facts to  
16 justify application of this enhancement.

17 At most, two victims may qualify as having  
18 suffered substantial financial hardship because they allege  
19 they provided their entire life savings to Mr. Bunevacz.

20 Putting those aside -- and I'm happy to address  
21 specific letters if the Court has questions -- many of the  
22 remaining statements understandably discuss the amount lost  
23 and resulting emotional and reputational harm.

24 But they only offer vague statements about the  
25 personal financial consequences like it was, quote, terrible

1 to lose their investments.

2 Some of the few concrete examples that are  
3 provided, while unfortunate, are not the kind of significant  
4 hardship that this enhancement requires. That, in many  
5 respects, is the main takeaway of George; that the financial  
6 hardship itself must be very significant to that particular  
7 victim based on their individual circumstances.

8 And many of the remaining victims who provided the  
9 largest sums of money were corporations, and I haven't seen  
10 any allegation that the corporations became insolvent or had  
11 to file for bankruptcy.

12 There is one individual who claims that their  
13 company entered bankruptcy. However, they can't be  
14 considered for purposes of this enhancement. I'm talking  
15 about victim G.H. because they are not a victim of the  
16 scheme alleged in the Indictment in this case.

17 Again, the amount lost, the number of victims are  
18 already accounted for under the guidelines. The magnitude  
19 of this fraud are already taken into account and  
20 Mr. Bunevacz is accordingly being severely punished already  
21 for the amount of loss and the number of victims.

22 More is required to add these additional two  
23 points to his offense level which given where he falls on  
24 the sentencing table would add over two years to the  
25 sentence recommended by the guidelines.

1           Unless the Court has any questions, I'm prepared  
2           to move on from the legal objection.

3           THE COURT:   You can move on.   Thank you.

4           MR. THREATT:   Thank you, Your Honor.

5           Turning to the 3553 factors, as we note in our  
6           papers, the one-level variance is appropriate in this case,  
7           specifically a sentence of 87 months for all the reasons we  
8           note in our papers particularly because, as the government  
9           acknowledges in its sentencing position, the guidelines here  
10          already account for all the various aggravating factors in  
11          this case.

12          Mr. Bunevacz swiftly entered a guilty plea upon  
13          being charged and appointed counsel and took responsibility  
14          for the full scope of the fraud as reflected in perhaps the  
15          most detailed factual basis I've ever seen in a plea  
16          agreement.

17          He's also not contesting the restitution amount  
18          which the government similarly acknowledges in its papers is  
19          a reason to impose a low-end guideline sentence at the very  
20          least.

21          Furthermore, Mr. Bunevacz has been diagnosed with  
22          advanced heart failure.   He hasn't seen a cardiologist in  
23          the last eight months he's been in custody.   We attached  
24          some medical records to Exhibit D of our sentencing  
25          position.



1           As I said, he hasn't seen a cardiologist for quite  
2     some time even though before his arrest he was seeing one  
3     every few weeks for checkups because his heart is  
4     increasingly getting worse with time.

5           As a result of that, any time in custody is  
6     especially punitive for Mr. Bunevacz and, frankly, it could  
7     potentially be deadly if he doesn't receive the kind of  
8     medical care that he needs.

9           And finally, Your Honor, I know we discussed this  
10    in our papers but it bears repeating. The guidelines here  
11    are so high that a sentence at or slightly below the low-end  
12    of the guidelines is a very substantial sentence especially  
13    for somebody who is a nonviolent offender and who's never  
14    been incarcerated before.

15          So any sentence that the Court is considering in  
16    light of the guidelines will be by far the harshest sentence  
17    that Mr. Bunevacz has ever received and that further weighs  
18    of a sentence at or below the low-end of the guidelines,  
19    specifically 87 months.

20          And with that, we're prepared to submit unless the  
21    Court has any questions.

22          THE COURT: Thank you. I don't.

23          If anybody has something so important they need to  
24    be looking at their phone for, you should be out in the  
25    hallway looking at your phone. Otherwise, please put the

1 phones away.

2 Thank you.

3 Mr. Bunevacz, is there anything you would like to  
4 say?

5 THE DEFENDANT: No, Your Honor.

6 THE COURT: From the government?

7 MR. SCHWAB: If I might address the guidelines,  
8 Your Honor.

9 THE COURT: Certainly.

10 MR. SCHWAB: May I take the lectern?

11 THE COURT: Certainly.

12 *(Pause in the proceedings.)*

13 MR. SCHWAB: Your Honor, with respect to  
14 substantial financial hardship to five or more victims,  
15 George, which Mr. Threatt just cited, also stands for the  
16 proposition that the Court can draw reasonable inferences  
17 given the total number of victims and the statements for the  
18 sample that it has before it.

19 In this case, though, there are at least five  
20 victims who've been explicitly identified even if victim  
21 G.H. is not included. So I'll note that in addition to all  
22 of the victims that are cited in the PSR, there was included  
23 with the sentencing position of the government the  
24 additional victim impact statement of victim C.W. who  
25 mentioned that his father has to delay his retirement

1 because of his life savings.

2 That's explicitly one of the factors that's looked  
3 at in determining substantial financial hardship.

4 And then among the additional victim impact  
5 statements submitted by the government this past week after  
6 its sentencing position, there were -- and these were  
7 submitted together -- the victim impact statement of victim  
8 S.M. who specifically stated that he lost all of my life  
9 savings and the victim impact statement of victim Z.A. who  
10 stated, quote, the \$402,000 was my life savings.

11 So, again, by Mr. Threatt's criteria, these would  
12 satisfy the fact that there are at least five individuals  
13 who suffered substantial financial hardship as a result of  
14 the offense.

15 The government is not claiming that each and every  
16 one of the victim impact statements outlines that but merely  
17 that we've met that threshold.

18 I do want to address, Your Honor, to the extent  
19 you have any specific questions regarding the obstruction  
20 enhancement the government is moving for as well as its  
21 motion for an upward departure as to the defendant's  
22 criminal history.

23 I agree with my friend Mr. Threatt that we are not  
24 asking for an upward adjustment to the defendant's criminal  
25 history in virtue of the fact that he has this prior

1 conviction that does not technically count toward his  
2 guidelines.

3           What the government is instead arguing is that the  
4 ordinary plus two points that an offender would receive for  
5 committing an offense or committing the instant offense  
6 while on supervision, whether that be probation or pretrial  
7 detention or -- excuse me -- whether it be probation,  
8 supervised release, or while serving a prison sentence; that  
9 that is what occurred here and that isn't otherwise  
10 precluded from being considered from an upward departure  
11 under the guidelines, and it's exactly the type of factor  
12 that warrants such an upward departure based on the stated  
13 purposes of the criminal history score under the guidelines  
14 which is that we need to consider the risk of recidivism  
15 here.

16           And in this instance this defendant has  
17 demonstrated that even while serving a criminal justice  
18 sentence, he continued to violate. He continued to commit  
19 the very same crime that the underlying state securities  
20 violation was relevant conduct for.

21           Similarly, with respect to the obstruction of  
22 justice enhancement, again, the government doesn't contest  
23 of the PSR's conclusion that this is ultimately relevant  
24 conduct, the underlying offense.

25           The language in the guideline is if the defendant

1 willfully obstructed or impeded or attempted to obstruct or  
2 impede the administration of justice with respect to the  
3 investigation, prosecution, or sentencing of the instant  
4 offense of conviction, that the offense level should be  
5 raised by two levels.

6 Now, Mr. Threatt points out that this isn't the  
7 instant offense. Rather, it's relevant conduct to the  
8 instant offense. I would disagree with that, Your Honor.

9 I believe it's actually -- given that this is a  
10 scheme that's being alleged, rather than simply like an  
11 individual act such as a bank robbery or an offense along  
12 those lines, and the scheme includes this period of time, in  
13 fact, explicitly references this state conviction in the  
14 Indictment and in the factual basis.

15 That fact demonstrates that it is relevant conduct  
16 but it's also explicitly part of the instant offense as well  
17 and so it would be appropriate for the Court to consider  
18 this as an obstruction enhancement.

19 As the Court knows, the government is recommending  
20 the low end and that is the low end of what the Court  
21 concludes the appropriate guideline range is here and the  
22 government stands by that.

23 And to the extent that the Court calculates the  
24 guidelines differently from how the government has submitted  
25 they ought to be calculated, the government's recommendation

1 is the low end of what the Court has actually concluded in  
2 this case.

3 I will note however, this is not a case that is a  
4 good candidate for a downward variance. I suspect that you  
5 will hear from victims today and you've already seen  
6 numerous letters outlining the destruction that this  
7 defendant has wrought on people's lives.

8 And while I do acknowledge the mitigation and  
9 virtually the fact that the defendant did, to his credit,  
10 swiftly accept responsibility and he's not contesting the  
11 restitution amount, the sad fact of the matter is it's  
12 highly unlikely that this defendant is actually ever going  
13 to be able to pay back that restitution.

14 And while Mr. Threatt compares the guidelines in  
15 this case to sort of punitive nature one would expect to see  
16 from a violent offense, that's very much what you see in  
17 terms of the actual suffering people had here.

18 Much like someone who's robbed at gunpoint. These  
19 are individuals who have trauma from this event, who have  
20 described the psychological pain and also the wake of just  
21 the economic destruction that's hit them.

22 Obviously, not everyone has suffered to the same  
23 degree but many have suffered a great deal here, and this is  
24 not a case that warrants a sentence below the guidelines.

25 Unless the Court has any questions, I have nothing

1 further.

2 THE COURT: I don't. Is there any victim here who  
3 wishes to make a statement?

4 MR. THREATT: Your Honor, could I respond briefly  
5 before we let the victims speak?

6 THE COURT: You may.

7 MR. THREATT: Thank you.

8 Your Honor, just briefly to touch on the  
9 government's objections to the PSR, we agree with the  
10 addendum to the PSR that was issued by the United States  
11 Probation Department that rejects both of these arguments.

12 With respect to obstruction, the relevant  
13 guideline provision is clear that the alleged obstructive  
14 conduct must have had an impact on the investigation,  
15 prosecution, or sentencing of the instant offense of  
16 conviction.

17 And despite the allegations about the misconduct  
18 with respect to the state case, there has been no -- no  
19 inkling that I have seen that any of Mr. Bunevacz's conduct  
20 has obstructed the federal investigation prosecution or the  
21 sentencing on this case which -- the hearing we're having  
22 right now so I think the probation department was right to  
23 reject that argument.

24 With respect to the upwards departure for criminal  
25 history category, probation again acknowledged that there is

1 no comparable situation in the commentary to the relevant  
2 guidelines provision that would apply here and, furthermore,  
3 the alleged misconduct is already accounted for by the  
4 guidelines range because the loss from the state case and  
5 subsequent to the state case is already factored in the  
6 offense level calculation.

7 Furthermore, with respect to restitution, we note  
8 in our papers that there is a large restitution order in  
9 this case. Mr. Bunevacz is not contesting it. That is an  
10 additional form of punishment that realistically be hanging  
11 over his head for quite some time.

12 His alleged inability to make full restitution  
13 payments is not something that should be considered at  
14 sentencing. It's certainly not something that should be  
15 considered to justify a longer term of incarceration.

16 Just briefly on the substantial financial hardship  
17 point, Your Honor, the government noted some language from  
18 *United States v. George* about the ability of courts to make  
19 a reasonable estimate of the substantial financial hardship  
20 to five or more victims.

21 In that case I think that made sense and this is a  
22 very important point because the entire class of victims  
23 were specifically targeted because they were already in  
24 financial distress.

25 So it was more -- it was more an issue in that



1 case where the Court could reasonably look at the number of  
2 victims, know that they were specifically targeted because  
3 they were on the verge of foreclosure and not delve into  
4 quite as detailed an analysis with respect to each  
5 individual victim's financial situation.

6 In this case given -- given the different -- the  
7 nature of the scheme here, we do require additional  
8 specifics as to the financial impact on each victim in order  
9 to justify this further two points which has a profound  
10 impact on Mr. Bunevacz's guidelines range.

11 Mr. Schwab noted two of the victims who allegedly  
12 lost an entire life savings. Those are the two I mentioned  
13 before that I think would qualify under the standard.

14 But with respect to the others, including the ones  
15 in the PSR, there are just conclusory statements about  
16 potential delaying of retirement without any specifics  
17 given.

18 Even if delaying requirement is an example  
19 provided in the guidelines, there's still a question of  
20 degree. There's obviously a difference from postponing  
21 retirement for one year or postponing for 30 years.

22 And we simply don't have enough information that's  
23 certainly specific to conclude that at least five victims  
24 have suffered substantial financial hardship as that is used  
25 in the guidelines.

1           Again, we don't dispute that the victims here have  
2           endured financial and emotional harm. But this is a very  
3           specific legal question, and I think *United States v. George*  
4           is quite clear.

5           And as interpretive gloss to the guidelines in the  
6           commentary, that the financial hardship itself must be quite  
7           significant and I just don't think there is a basis here to  
8           apply that enhancement.

9           Unless the Court has any questions, I'm prepared  
10          to submit on that basis.

11          THE COURT: I don't. Thank you.

12          Mr. Schwab, from the victims?

13          MR. SCHWAB: Your Honor, I do recognize there are  
14          a number of victims here and I am not sure if anyone does  
15          want to address the Court but if so I see at least one.

16          THE COURT: All right, sir. One of you step up  
17          and just give us your initials and I will keep asking if  
18          there's anyone else until there's no one else who stands so  
19          don't worry. We'll get to everyone.

20          THE WITNESS: Good morning, Your Honor.

21          THE COURT: Good morning.

22          VICTIM S.S.: My initials are S.S. and thank you  
23          for allowing me to address the Court this morning.

24          I represent two victims and I'm going to read my  
25          statement if that's okay.

1 THE COURT: You say you represent two victims.  
2 Are you a victim?

3 VICTIM S.S.: I am personally a victim.

4 THE COURT: Okay.

5 VICTIM S.S.: And my company.

6 THE COURT: All right; fine. When we say  
7 "represent" here, we're generally referring to lawyers so I  
8 just wanted to make sure.

9 VICTIM S.S.: I understand. Thank you.

10 THE COURT: Go ahead.

11 VICTIM S.S.: David Bunevacz's fraud was  
12 deliberate, large scale, and he profoundly and adversely  
13 affected the lives of many victims including myself, my  
14 wife, and one of my companies and its hundreds of  
15 shareholders.

16 I'd like to address the Court today on my personal  
17 experience and loss suffered at the hands of David and his  
18 daughter Hayca. I am the president and CEO and a director  
19 of a public company listed in Canada.

20 My company and I were introduced to David and  
21 Hayca Bunevacz in August-September of 2018. After learning  
22 about the opportunity to invest in CB Holding Group Corp.,  
23 my company and I conducted due diligence which included  
24 questions posed to David Bunevacz and his attorney  
25 representing their company.

1           We reviewed purportedly audited financial  
2 statements which later proved to be fraudulent, a legal  
3 opinion from the company's lawyer concerning assets offered  
4 as security for loans.

5           The assets offered as security turned out to be  
6 worthless, a fact which should have been obvious given the  
7 knowledge of the lawyer providing the opinion, and purchase  
8 order details with a vape pen distributor who subsequently  
9 were also proven to be fraudulent.

10           We reviewed the Olympic ticket legal matter and in  
11 raising the issue, were provided by David a fraudulent legal  
12 decision that said David Bunevacz had settled this legal  
13 matter without liability when, in fact, I ultimately learned  
14 that he had actually lost the legal proceeding and was  
15 sentenced to one year in jail and probation.

16           I joined another investor to visit other cannabis  
17 businesses, dispensaries, made a site visit to Los Angeles  
18 where we were told by David Bunevacz that he had a  
19 significant interest in these businesses.

20           David used this evidence as part of his fraud to  
21 provide credibility for his story. We later came to find  
22 out that he, in fact, no longer had an interest in the  
23 business as he had defaulted on his obligations which  
24 brought an end to any position he may have held in those  
25 businesses.

1           After completing the above due diligence and in  
2           reliance on information provided by David Bunevacz, I  
3           recommended to my Board of Directors that the public company  
4           advance US \$3.5 million to CB Holding by way of a  
5           convertible debt instrument.

6           The Board reviewed the due diligence legal opinion  
7           and other information including my recommendation to make  
8           the loan and determined to proceed. The loan was made in  
9           two tranches, one for 2 million in November 2018 and the  
10          second for 1.5 million in December 2018.

11          The funds loaned from the public company were to  
12          fulfill purchase orders for vape pens that were to be  
13          delivered by year end 2018.

14          In addition to the above due diligence, my company  
15          and I were provided by David Bunevacz with purchase orders  
16          for vape pens, CBD oil, THC oil, all of which eventually  
17          proved to be fraudulent.

18          David Bunevacz told me and other investors that  
19          the \$3.5 million loan would complete two vape pen orders  
20          that were already presold to distributors thereby  
21          guaranteeing a profit on delivery. We relied on this fraud  
22          in making this large loan.

23          In January 2019, David Bunevacz began making  
24          excuses for delays in receiving vape pens from China and  
25          fulfilling the orders for the sale a hundred percent of the

1     vape pens under the fictitious purchase orders.

2             Some of the excuses given for the non-sale of vape  
3     pens included delays in shipping, manufacturing delays,  
4     delays in battery shipments.

5             And in March 2019 I was told by David Bunevacz  
6     that all shipments of vape pen components had been received,  
7     CBD and THC cannabis oil was purchased, and that what was  
8     needed to complete the delivery and sale to distributors was  
9     an additional \$1 million to fill the empty vape pens. A  
10    profit was certain and the distributors buying the completed  
11    vape pens stood ready to pay on delivery as agreed.

12            When David told me that we were within 30 days of  
13    closing out the CBD and THC vape pen sales, I discussed with  
14    my board the need for an additional \$1 million convertible  
15    loan. The company felt that the \$3.5 million loan was going  
16    to be the company's limit on this investment.

17            I told the board that I would make this loan  
18    personally, short-term, 30 days, in order to protect my  
19    company's \$3.5 million investment.

20            I then had a discussion with my wife and we went  
21    to our bank and borrowed \$1 million which is \$1.35 million  
22    Canadian dollars on our home line of credit.

23            Since our home is in my wife's name, she needed to  
24    agree and to increase our line of credit, she needed to sign  
25    off. Our line of credit remains open and my wife and I

1 still owed the Canadian Imperial Bank of Commerce 1,350,000  
2 plus interest for three and a half years from the personal  
3 loan made to David Bunevacz, his company, to complete the  
4 funding for these fictitious vape pen purchase orders.

5 My company that loaned \$3.5 million missed out on  
6 other business opportunities because it loaned most of its  
7 available treasury to David Bunevacz and his companies under  
8 fraudulent circumstances.

9 The company now sits as a shell company with debts  
10 of 1,700,000 Canadian of which 855,000 is owed to me. I  
11 have been lending the company money to maintain its public  
12 listing and to pay operating costs such as salaries, rent,  
13 fees to auditors and lawyers and other related public  
14 company expenses.

15 I would like to tell the Court that my life over  
16 the past four years has been adversely affected by David  
17 Bunevacz's fraud.

18 There has been considerable stress on my marriage  
19 caused by me recommending to my wife that we make this  
20 personal loan to David Bunevacz.

21 As for my relationship with my board and the  
22 shareholders in my public company that gave David Bunevacz  
23 \$3,500,000 on my recommendation, I have had to live with  
24 significant reputational harm which has also negatively and  
25 severely limited my ability to raise needed capital for the

1 public company.

2 That's my statement, Your Honor.

3 THE COURT: Thank you.

4 VICTIM S.S.: Okay.

5 THE COURT: Who else would like to speak?

6 VICTIM G.H.: Thank you, Your Honor, for giving me  
7 this chance for my day in court.

8 THE COURT: Your initials, sir.

9 VICTIM G.H.: Gene Hammet.

10 THE COURT: Thank you.

11 VICTIM G.H.: I thought my day in court would be  
12 different. I met Bunevacz in 2008 in China. We became  
13 friends. We did business. Everything he said, I trusted  
14 him. He called me his brother. He prayed with me. And so  
15 I got into the biggest deal of my life with him and that was  
16 in 2010 when everything fell apart.

17 I thought I would get my day in court on that  
18 ordeal. But when we talked to the district attorneys, we  
19 talked to different people, they explained to me that  
20 because of the statute of limitations would be three years,  
21 that it was not enough to put a case against someone in a  
22 complex scam or scheme that Mr. Bunevacz portrayed on me and  
23 so I never got my day in court that day.

24 I filed civilly. We fought it out for years. I  
25 ended up doing bankruptcy. The harm that he did to me was



1 much more than money.

2 I was a successful businessman. I had run my  
3 business for nine years. I had done the right thing over  
4 and over and over until I ran into Mr. Bunevacz when I  
5 trusted him.

6 And it hurts me to say this, but I just lost trust  
7 in myself. I struggled with my confidence. I struggled  
8 with everything to be able to put my life back together when  
9 he took \$3 million from me and my business.

10 I did stick it out with my wife. We're still  
11 together after so many years of hardship. It was more than  
12 a decade.

13 One thing I wanted to bring up today that not just  
14 with me as a victim but this is so much more than money. I  
15 know you see that.

16 What's not been clear today. Maybe it's in the  
17 documents. But what did he do with this money? How did he,  
18 you know, handle himself when he had millions of dollars?

19 Well, I had to watch it on social media. Him  
20 flying private. Him taking big trips, big parties with his  
21 family. The two most outrageous things I saw in this was  
22 for some reason he spent \$80,000 on a mattress.

23 For someone who grew up sort of middle class and  
24 trying to make things work, that didn't even make sense to  
25 me. How could he spend \$80,000 on a mattress? It was my

1 money.

2 The other thing was gambling. No one has really  
3 mentioned the gambling and what he's done with his money but  
4 I've looked at the details and tried to understand this but  
5 I just don't.

6 But you sit down to play a hand of blackjack and  
7 it's ten seconds. And all the notes from the casinos came  
8 back said he was playing \$5,000 a hand.

9 Those things stood out to me. It's about the  
10 money but what happened with all this money? What happened  
11 with this? And we go way back then because I know I'm not a  
12 traditional victim in today's, you know, scheme of  
13 35 million but there's a pattern that he set forth over 12  
14 years ago. That pattern continued as he pillaged people who  
15 would fall preys to his charm. They would trust him.

16 And I want you to understand that it's so much  
17 more than money, the impact he makes on families. The  
18 impact he made on my family. The biggest part is we  
19 struggled, me and my wife, to put things together and I had  
20 a young son who was almost three at the time this happened.

21 And so there were literally months or years where  
22 we don't even know how we took care of things, how we took  
23 care of him and give him the attention he needed. We tried  
24 our best but it's so much more than money.

25 The second thing I want to bring up, Your Honor,

1 is -- is it really likely for someone like this to make  
2 reform? Is some time in jail going to give him time to  
3 think? My guess is knowing and so many conversations I had  
4 with someone like him, what he will think about is not what  
5 he could do to pay back people. It's why he got caught.  
6 Why did he get caught? That's what he will think about.

7 How could he have done it differently? How could  
8 he have really changed things so he didn't get caught.  
9 That's what he'll be thinking about in the sentencing.

10 Will he really be reformed? I don't know. You  
11 know more about the system than I do but I don't think it  
12 reforms people.

13 And the final thing today, I thought about this, I  
14 was trying to piece it together and I put it behind me for  
15 the most part. But this has brought up a lot of feelings  
16 and a lot of pain.

17 And I saw you took the bench 19 years ago. George  
18 W. Bush appointed you to be here. I don't know why he did  
19 it but I think it comes down to one thing. Will you take  
20 care of the people?

21 This is not about punishing him. I don't care.  
22 But I've thought for years how could I stop him from doing  
23 this to others?

24 I don't know. This is my chance, though. I hope  
25 you see that it's more than money. I hope you see that

1 reform is unlikely. I hope you will do what your job and  
2 your appointment has set you to do and that's to take care  
3 of the people. Protect us.

4 Thank you.

5 THE COURT: Thank you.

6 Anyone else?

7 MR. SCHWAB: Your Honor, I just want to note with  
8 respect to the prior victim, that he is named as the victim  
9 in the aggravated identity theft count and is referenced in  
10 the factual basis.

11 THE COURT: I recall that. Thank you.

12 VICTIM T.D.: Hello, Your Honor. My initials or  
13 name, it doesn't matter. I really don't care.

14 THE COURT: Whatever you're comfortable with.

15 VICTIM T.D.: My name is Tom Danford. My wife  
16 Meredith and my son is Oliver who's 12 and my daughter is  
17 Charlotte who's 10. We lived in Stevenson Ranch,  
18 California, in the Santa Clarita Valley from 2012 to 2019.

19 Meredith and I met David Bunevacz and his wife  
20 Jessica at the Paseo Club in Valencia in the fall of 2014.  
21 Over the next five years, we became very close family  
22 friends. David and I hung out three to four days per week  
23 practically every week. Whether we working out, taking a  
24 spin class, pilates classes, or just grabbing lunch.

25 We became fast friends while our wives spent

1 numerous hours of time together as well as doing many of the  
2 same things. We grew to love the Bunevacz family. My kids  
3 loved Mr. Dave and Ms. Jessica. My daughter Charlotte  
4 thought their youngest daughter Brianna was a princess.

5 David and Jessica knew my family intimately. Our  
6 families took many trips together to places such as the  
7 Bahamas, Chicago, New York. Celebrated holidays and  
8 birthdays, anniversaries, and numerous other special  
9 occasions together whether it be in Mammoth, Palm Springs,  
10 or Santa Barbara.

11 We trusted them. We supported them. From  
12 attending their daughter's horse shows to flying to New York  
13 to visit Jessica and Brianna while they were filming a TV  
14 show. We believed in them and thought they believed in us.

15 About a year or so into our friendship, Dave asked  
16 if I was interested in providing a short-term investment, a  
17 bridge loan if you will, for some e-cigarette deals.

18 At the time I felt I got to know him pretty well,  
19 saw appearance of successful entrepreneur in an emerging  
20 industry. So after some due diligence, I agreed to move  
21 forward.

22 Unbeknownst to me at the time, I had dipped my  
23 foot into the Bunevacz family Ponzi scheme pool, as that  
24 small investment turned into two additional slightly larger  
25 bridge loans, all the while he was setting me up for a

1 larger ask.

2 David and Jessica knew intimate details of my wife  
3 and my past, our past. How Meredith and I met beginning our  
4 journey in recovery and sobriety almost 20 years ago.

5 David and Jessica knew how I lost everything  
6 almost 20 years ago. My consequences. How I was homeless  
7 except for about 50 bucks and bus pass. But more  
8 importantly, they knew how Meredith and I had overcome those  
9 challenges and built our lives back together both  
10 spiritually and financially.

11 They knew that our recovery and our family was the  
12 most important thing in our lives next to our faith. They  
13 preyed on that knowledge and they manipulated us from the  
14 beginning of the relationship while pretending to care about  
15 us and the well-being of our children.

16 Speaking of faith, what is laughable now -- and  
17 the gentleman earlier talked about praying with him -- they  
18 would organize prayer groups at their house and Jessica  
19 would post them on social media. It was just another ruse  
20 to keep people believing that they were this morally  
21 centered family that truly cared about others and had a deep  
22 faith in Christ.

23 In short, David and Jessica stole our life  
24 savings. Our children's future and ability to trust so that  
25 they can continue their corrupt little lie that they were

1 living.

2 I see that David's falling on the sword for the  
3 entire family but they are all guilty of being involved in  
4 this criminal scam. Jessica would brag about how Dave would  
5 buy her expensive jewelry because he couldn't get a life  
6 insurance policy due to his heart condition.

7 In addition to the massive closet of designer  
8 clothes and shoes, somewhere Jessica has got a half a  
9 million-dollar ring that the victims in this courtroom today  
10 have all chipped in on.

11 I realize that I didn't get the worst of the Ponzi  
12 scheme compared to the other victims in this room but it's  
13 all relative. The money in my savings that it supposedly  
14 was for an e-cigarette company or was a legitimate marijuana  
15 production facility that had contracts with the city that  
16 was supposed to go public with some Canadian company. The  
17 story kept changing and it was all fraud and his entire  
18 family was in on it.

19 I guess to the Court, Your Honor, you know, the  
20 only way, similar to what the gentleman said before is, you  
21 know, David and Jessica didn't know how to survive. They  
22 don't know how to survive in this world besides stealing  
23 from people and ruining their lives.

24 And I just implore you give David the gift of the  
25 maximum sentence, no appeal, no reduction for good behavior.

1 Give him a time to sit on a time out and think about the  
2 destruction that he caused everybody in this room because if  
3 he's let out and given the opportunity of freedom, he'll do  
4 it again. He knows no other way.

5 Thank you, Your Honor.

6 THE COURT: Thank you.

7 Is there anyone else who would like to be heard?

8 VICTIM C.C.: Hi, Your Honor. I'm C.C., another  
9 victim. My partner had known David for quite some time and  
10 really had trusted him.

11 My father at the time was on his last month of his  
12 life or last few months so he was using a tincture. David  
13 came to find this out. Completely set up the entire  
14 scenario of how he owned one-third of this company.

15 Consequently, he -- I am so upset by this.

16 THE COURT: Take your time.

17 VICTIM C.C.: -- supplied my father with, you  
18 know, the medicine or the tincture; and that's how I  
19 invested because I thought he was such a compassionate  
20 amazing person. My partner, my good friend, all went on my  
21 word and we all lost everything.

22 And we were some of the, you know, fortunate that  
23 are going to be fine but I can tell you that it was a  
24 complete setup and a scam and it's hard to even talk about.

25 So I think that mercy is something for someone



1 with remorse and in a situation like that, it shows no  
2 remorse because it's ruthless and conniving and manipulative  
3 and I think character is everything in a person.

4 That's all I have to say.

5 THE COURT: Thank you.

6 Is there anyone else who would like to be heard?

7 VICTIM I.C.: I.C. Curt's business partner.

8 Worked for him. Known David as a patient for more than ten  
9 years before working with Curt. Sorry. Hands are shaking.  
10 I didn't think I would be speaking today.

11 THE COURT: That's all right.

12 VICTIM I.C.: I think he'll do it again if he has  
13 an opportunity. There's no question. All these years I've  
14 known him, I cared not to ask him about how he was driving  
15 fancy cars living the lifestyle he did.

16 I think he trusted me as a dentist enough to refer  
17 a lot of really great people to the practice in Valencia  
18 which I still practice him. So I trusted him back and just  
19 recently, he gave me this great business opportunity and of  
20 course I trusted him almost as a friend and he knew my  
21 situation.

22 I love to take care of my parents. They live in  
23 my house and I love them to do that. And he -- I remember  
24 him saying: Oh, you could do whatever you want for your  
25 parents. Buy them a house. And I thought I deserved it, I

1 guess, because I was such a good friend to him.

2 And the level of coldheartedness and I think  
3 someone described it as sociopathic, I've never -- I don't  
4 know if I've ever met one in person but I think I really did  
5 and it's really unfortunate for me that I -- I mean, I'm  
6 still practicing so I don't want to talk about money and  
7 things like that.

8 But if I had the opportunity to warn others, I  
9 certainly would have. And so I just have to say I think  
10 he's a different level of crook. I think he's not just a  
11 businessman that just couldn't make money or do good deals.

12 I think this is a whole different level of just  
13 not brazenness, but just -- I think he has no capacity to  
14 understand the hurt that he's put on all his victims.

15 Thank you.

16 THE COURT: Thank you.

17 Is there anybody else who would like to speak?

18 VICTIM B.S.: Hi. My name is Bill Sewell and I'm  
19 here on behalf of my wife Lisa, my daughter Fiona who was  
20 very close friends with Brianna at the barn where they first  
21 met.

22 As you've been hearing the patterns, we also were  
23 very impressed with not only the flashiness of both David in  
24 his Lamborghini and Jessica in her Bentley driving up there,  
25 you know, every day. But they were very present, very

1 charming, very easy to spend time with.

2 We spent many hours like everyone else did or  
3 multiple days on the road at these horse shows, and it took  
4 David some time before he offered us the opportunity to  
5 invest in this company as well.

6 We didn't quite understand where the money came  
7 from but as -- I mean, he's very articulate. He's very good  
8 at -- as you could hear, gaining trust and could speak to  
9 his subject matter very well so it seemed like a very  
10 legitimate possibility.

11 Umm, we vetted it. I even brought a referral to  
12 him to do work for him and realized, you know, after the  
13 fact, that she never got paid.

14 It was May 9<sup>th</sup>, 2011, when I had my last  
15 conversation with David and it was -- I realized that there  
16 was -- done research finally to see why he had not been  
17 returning paperwork or getting back in touch with us for  
18 legal filings that we needed to do on this investment.

19 And finally I called and said: Hey, you know, we  
20 need our money back. We need out and, oh, by the way, I'm,  
21 you know, concerned with what I'd learned from your behavior  
22 at the barn, you know.

23 This is -- this was a place where we all got  
24 together and then I realized that he had managed to convince  
25 every single family in the barn to invest in his company.

1 Like I said, very persuasive.

2 And the problem that I had had was the distress  
3 that he had caused to the most important person collectively  
4 in all of our lives which was the trainer at the barn that  
5 kind of gave me an instant sense of actually what  
6 malevolence was going on below the surface.

7 And when I told him: I need the money back. Oh,  
8 yeah. He said: No problem. I'll pay you back. You're  
9 going to be just fine.

10 And then I felt that that was going to be --  
11 things might work out. And then he called an hour later and  
12 then he lit into me about the most important person in his  
13 life. How dare I get involved with him and this woman who  
14 everyone loved, who's one of the most ethical people in the  
15 business.

16 And that was the moment I knew I was a mark and I  
17 just listened and just the sinking feeling that I had, that  
18 I never realized that I could be played but I had just been  
19 played.

20 And there was an unbelievable amount of like  
21 malevolence to state how he said that was the most important  
22 person in his life after he had caused possibly a hundred  
23 thousand dollars of financial harm to her and her vendors.

24 And I knew this because I -- his schemes worked  
25 really well in the dark when nobody else knows what's going

1 on. So after that conversation, my job was to now check in  
2 with everybody else that he had affected.

3 And then realized that in each and every  
4 consideration -- like following phone call, he would tell  
5 everyone else that -- people that he talked to were okay.  
6 That, oh, they're all settled. He always had a reason, a  
7 story, everything was okay and each of us were talking to  
8 each other and realizing that he was lying after we all knew  
9 what was going on. Lying consistently and threateningly,  
10 menacingly and to powerful lawyers, to powerful people.

11 That portion -- it actually caused us a bunch of  
12 concern which was not only is this malevolent evil behavior  
13 but what else is he capable of because we didn't know that  
14 that was a possibility. We didn't know he was capable of  
15 that. And didn't know. Didn't know but was actually quite  
16 fearful of what else could be coming down the road.

17 It also really helped us believe -- and you hear  
18 it from everyone else before -- is that this has been  
19 practiced behavior over a long period of time to the people  
20 he most cares about or that we felt that he most cared  
21 about.

22 So I don't know how people change over time but I  
23 would really ask you to consider protecting the rest of us  
24 as much as you possibly can from these schemes going on.

25 His wife and daughter, I love the daughter still

1 but they are living their best lives. You know, we never  
2 got paid back. We're watching them continue to be  
3 princesses in the social media realm and it's -- and, you  
4 know, posts of giving financial advice. Just unbelievably  
5 frustrating to see as we all know what the true quality of  
6 their personalities and their ethics are so please, please  
7 protect us.

8 Thank you.

9 THE COURT: Thank you.

10 Is there anyone else who would like to speak?

11 *(No response.)*

12 THE COURT: All right.

13 The government argues that the defendant should  
14 receive a two-level enhancement for obstruction of justice.  
15 The defendant was charged in 2012 with unlawful sale of  
16 securities, grand theft personal property, using false  
17 statements in the sale of a security, and using false  
18 statements.

19 As part of a plea deal, most of the charges were  
20 dropped in exchange for a plea to unlawful sale of  
21 securities.

22 In 2017, he was sentenced on that charge to three  
23 years' probation with 360 days in jail and 300 hours of  
24 community service but the custody provision was temporarily  
25 stayed.

1           He was ordered to pay restitution of \$185,000 to  
2           one victim and \$88,000 to another. Once that restitution  
3           was paid, the custody time was permanently stayed.

4           The parties and the probation officer agree that  
5           the 2012 case is relevant conduct here because it was for  
6           similar fraudulent conduct in the midst of the current  
7           ongoing fraudulent scheme.

8           The government argues defendant paid the  
9           restitution that kept him out of jail with funds obtained  
10          through defrauding investors, part of the scheme to which he  
11          has pleaded guilty in this case.

12          Defendant admitted in his plea agreement that his  
13          scheme to defraud began no later than in or about 2010 and  
14          continued at least through about April 2022.

15          The probation officer notes that defendant had no  
16          lawful form of income during the time that he was on  
17          probation for his state court conviction and was making  
18          restitution payments. Defendant does not dispute this.

19          The government contends that because the state  
20          court conviction is considered part of the instant offense,  
21          defendant should receive an enhancement under Guideline  
22          Section 3C1.1.

23          This section states that if:

24                1. The defendant willfully obstructed or impeded  
25          the administration of justice with respect to the

1 investigation, prosecution, or sentencing of the instant  
2 offense of conviction.

3 And 2. The obstructive conduct related to, A, the  
4 defendant's offense of conviction and any relevant conduct  
5 or, B, a closely related offense, the offense level should  
6 be increased by two levels.

7 Although there is some doubt and if the commission  
8 had contemplated conduct as brazen and egregious as this, it  
9 almost certainly would have included what the defendant did  
10 here, the Court concludes that the first requirement is not  
11 met and declines to impose the enhancement.

12 The government next contends that the criminal  
13 history category, one, substantially underrepresents the  
14 seriousness of defendant's criminal history or the  
15 likelihood that the defendant will commit other crimes.

16 The government specifies that it is not asking the  
17 Court to depart upward based on the conviction in  
18 defendant's state court case because this may be prohibited  
19 by the guidelines.

20 Though it appears the Ninth Circuit has not yet  
21 addressed this issue, the Court will accept the government's  
22 suggestion and not impose it on that basis.

23 The government contends, however, that the  
24 guidelines do not limit the Court's ability to impose an  
25 upward departure for committing the instant offense while



1 under a criminal justice sentence where the sentence arose  
2 from conduct that is part of the offense.

3 The probation officer states that defendant's  
4 prior criminal history does not fit squarely into any of the  
5 categories described in the guidelines for a departure.  
6 That may be true but fitting squarely does not seem to be a  
7 requirement.

8 The Court agrees with the government that criminal  
9 history category I substantially underrepresents the  
10 seriousness of defendant's criminal history and the  
11 likelihood that the defendant will commit other crimes.

12 The issue here is very similar to Guideline  
13 Section 4A1.3(a)(2)(D), which suggests an upward departure  
14 is appropriate when defendant was pending trial or  
15 sentencing on another charge at the time of the offense.

16 As I said, the defendant brazenly and egregiously  
17 continued the same or very similar conduct throughout his  
18 term of probation while allegedly making honest efforts to  
19 repay his victims and rehabilitate himself.

20 He not only continued his fraudulent conduct, he  
21 escalated it. This is a very good indication that he is  
22 likely to commit other crimes and that category I does not  
23 reflect the seriousness of his criminal history.

24 In addition as the government points out,  
25 defendant admitted to violating the terms of his probation

1 in that case even aside from continuing to commit the same  
2 offense.

3 It is clear that defendant's record is  
4 considerably more serious than that of other defendants in  
5 the same category even without considering any alleged  
6 conduct that may have occurred in the Philippines.

7 The Court finds defendant is in criminal history  
8 category II.

9 The defendant contends that the presentence report  
10 incorrectly applies a two-level enhancement for a  
11 substantial financial hardship to five or more victims.

12 He notes the government bears the burden of proof  
13 but it is easily met here. Application of Note 4(f) to  
14 Section 2B1.1(b)(2)(B), provides a nonexclusive list of  
15 factors to consider in determining substantial financial  
16 hardship and the government has clearly met its burden of  
17 proof by supplying detailed victim statements as well as the  
18 information in the presentence report.

19 Defendant's fraudulent promises impacted victims'  
20 ability to meet their own financial obligations while he was  
21 living a lavish lifestyle. He took money that was meant to  
22 fund retirement, children's college education and siblings  
23 schools. He encouraged people to invest their entire life  
24 savings and they did.

25 In addition to the victims listed in the PSR, at

1 least victims JPV, CAO, and FCC, suffered substantial  
2 financial hardship and by naming these victims the Court  
3 does not mean to suggest that the others who have provided  
4 information did not also suffer substantial financial  
5 harbor. The enhancement is proper.

6 I find the report to be accurate and correct in  
7 all material respects with the exception of the increase in  
8 criminal history category.

9 I adopt the report and the calculation of the  
10 advisory sentencing guidelines.

11 The advisory guidelines are the starting point and  
12 the initial benchmark in the Court's analysis. I'm  
13 consulting and taking into account the current edition of  
14 the guidelines.

15 The total offense level is 32. The criminal  
16 history category is II. The guideline range for custody is  
17 135 to 168 months. The range for supervised release is one  
18 to three years. The special assessment to the Crime Victims  
19 Fund is \$200.

20 Does the government have a revised recommendation  
21 based on the Court's calculated guidelines range?

22 MR. SCHWAB: It does, Your Honor. Based on the  
23 Court's calculations, the government recommends 135 months.

24 THE COURT: Thank you.

25 In making an individualized determination based on

1 the facts, I'm also considering the factors described in  
2 18 United States Code, Section 3553(a) especially but not  
3 exclusively the nature and circumstances of the offense and  
4 the history and characteristics of the defendant; the need  
5 for the sentence to reflect the seriousness of the offense,  
6 to promote respect for the law, and provide just punishment;  
7 to afford adequate deterrence for criminal conduct and to  
8 protect the public from further crimes of the defendant.

9 I'm considering the kinds of sentence available  
10 and the kinds of sentence and sentencing range established  
11 for the applicable category of offense committed by the  
12 applicable category of defendant as well as the need to  
13 avoid unwarranted sentence disparities among defendants with  
14 similar records who've been convicted of similar offenses.

15 The Court also considers the need to provide  
16 restitution to victims of the offense. Though considering  
17 the number of victims and the enormity of the fraud, it's  
18 unrealistic to think that any of the victims will obtain  
19 anywhere near their loss regardless of the Court's sentence.

20 Defendant, of course, has promised in connection  
21 with a past sentencing to repay his victims. Did he do then  
22 by defrauding additional people. I don't believe he has any  
23 more intention to repay these victims honestly or otherwise  
24 than he did at that time.

25 He submitted probably the least convincing letter

1 the Court has ever received from a defendant. I am not in  
2 the least persuaded that Mr. Bunevacz regrets anything other  
3 than that he was caught.

4 If he had any remorse about his conduct and the  
5 devastation he was causing, he would have stopped  
6 immediately after being charged in the state court case. He  
7 did the opposite.

8 Mr. Bunevacz's history and characteristics and the  
9 nature and circumstances of the offense are extremely  
10 aggravating in part because he used fraudulently obtained  
11 funds to keep him out of prison in that state court case.

12 The Court concludes that the defendant's obviously  
13 willful fraud on the state court that caused the state court  
14 to stay the sentence of nearly one year in jail is an  
15 extremely aggravating circumstance that compels a  
16 significant upward variance in his sentence.

17 The Court is not persuaded by the probation  
18 officer's comment that it does not appear that defendant  
19 actually provided materially false information in his prior  
20 case because he may not have been affirmatively dishonest  
21 about the source of the funds that he used to pay the  
22 restitution.

23 Deliberate material omissions also constitute  
24 fraud under both state and federal law and it goes without  
25 saying that defendant's failure to tell the judge that he

1 was using funds obtained fraudulently through a continuation  
2 of the conduct for which the judge was sentencing him was  
3 material and obstructed justice in the defendant's  
4 sentencing.

5           It was a fraud on the state court; and having been  
6 there, I am one hundred percent confident that the state  
7 court judge would reach the same conclusion.

8           Though variances do not necessarily have to be  
9 stated in terms of levels, this conduct is so closely  
10 related to that described in Sentencing Guideline  
11 Section 3C1.1 that the Court concludes that a two-level  
12 upward variance is appropriate for this reason alone.

13           The nature and circumstances of the offense are  
14 also extremely aggravating. Defendant was engaged in this  
15 fraudulent conduct for more than a decade. Not even a  
16 criminal conviction and the threat of jail caused him to  
17 consider becoming a law-abiding citizen.

18           The various means that he used to defraud  
19 investors were extremely sophisticated even defeating the  
20 due diligence performed by investors who were sophisticated  
21 and knowledgeable themselves.

22           He forged signatures, formed documents, and used  
23 means far beyond that necessary to earn the enhancement for  
24 sophisticated means. In addition, he attempted to entourage  
25 one investor to engage in insurance fraud with him.

1           In addition to that, as the government points out,  
2     the purpose of his fraud was not for some desperate need to  
3     help a family member deal with unforeseen medical issues or  
4     to save a foundering buys, not that that would have been an  
5     excuse.

6           His purpose was to provide himself and his family  
7     with an extremely extravagant lifestyle which they flaunted  
8     on social media. This conduct only served to convince some  
9     investors that he was as successful in his business as he  
10    claimed to be.

11          He preyed on individuals who believed he was their  
12    friend. He accepted their life savings and money from  
13    mortgaging homes or depleting retirement accounts.

14          In at least one case, he appears to have reloaded  
15    a victim by returning for an additional one million dollars  
16    over what the individual had convinced his company to  
17    invest.

18          The Court also agrees with the government that the  
19    seriousness of defendant's conduct cannot be captured in  
20    mere dollars and cents.

21          The letters and the statements of the victims are  
22    heartbreaking. Although some of his victims were business  
23    entities, others were individuals who knew him or who were  
24    referred to him by others who knew him. Some believed they  
25    were close friends and socialized with him and his family.

1           There is an enhancement for substantial financial  
2   harm which, as I said, is entirely appropriate but  
3   apparently there is none for the related severe emotional  
4   and even physical harm that's caused by predators such as  
5   this defendant.

6           In many cases that harm is worse than the  
7   financial harm. As happened here victims became so  
8   embarrassed they cannot face family and friends. They lose  
9   their ability to trust themselves or others. They become  
10   severely depressed and may even suffer physical  
11   consequences. They suffer irreparable harm to their  
12   reputation and often have relationships with family and  
13   friends destroyed or nearly so.

14           I recognize that some of these factors have been  
15   accounted for in the enhancements and I am not including  
16   them in my determination for an additional upward variance.

17           But to the extent the guidelines do not fully  
18   capture the seriousness and devastation of financial fraud  
19   through those enhancements, the Court has a policy  
20   disagreement with the guidelines and finds these factors, as  
21   I said to the extent not previously considered in  
22   calculating the range, justify an upward variance and a  
23   sentence at the high end of the range.

24           The defense asks for a downward variance of two  
25   levels if the Court accepts the probation officer's and



1 government's analysis of substantial financial hardship on  
2 the grounds that it's duplicative of the amount of loss and  
3 number of victims factors.

4           The Court disagrees and denies the request. The  
5 amount of loss applied is actually intended loss. Actual  
6 loss need not occur, although a very high amount of actual  
7 loss was suffered here.

8           But many of the direct victims did not suffer  
9 substantial financial hardship within the meaning of the  
10 enhancement or at least did not advise the Court of that and  
11 indeed there were well over one hundred investors who were  
12 defrauded.

13           And defendant's offense level did not include an  
14 enhancement for the number of victims even though the  
15 parties stipulated to it because only the greatest  
16 enhancement is applied pursuant to 2B1.1(b)(2) so there's no  
17 duplication.

18           The defense, as usual, does an excellent job in  
19 its sentencing position including comparing this type of  
20 crime to drug crimes or crimes of violence.

21           But a comparison of the total offense level to the  
22 base level of those other crimes is not necessarily the  
23 appropriate comparison and the Court does not agree that the  
24 comparison of the crimes themselves necessarily suggest that  
25 financial crimes should generally result in lesser

1 sentences.

2 Some types of financial crimes, including this  
3 one, fully justify the 20-year maximum sentence established  
4 by Congress and this case is a good example of why that is  
5 so.

6 Defendant's early acceptance of responsibility was  
7 certainly wise as the evidence against him appears  
8 overwhelming and the only way to get a reduction in the  
9 guidelines range is to enter into a plea agreement. The  
10 three-level departure is sufficient to address that factor.

11 The Court also does not find defendant's medical  
12 condition justifies a lower sentence. Once defendant is  
13 sentenced, he will be in the custody of the Bureau of  
14 Prisons rather than that of the Marshal Service.

15 The Bureau of Prisons has medical facilities that  
16 are well able to address concerns such as those the  
17 defendant apparently suffers from.

18 As the defense points out, the guidelines are only  
19 one of a number of factors the Court must consider. For the  
20 reasons just indicated, the Court finds that the guideline  
21 sentence as calculated by the probation officer even with  
22 the criminal history category of II and that now recommended  
23 by the government is not sufficient.

24 In addition, it is not sufficient to afford  
25 adequate deterrence for criminal conduct or to protect the

1 public from further crimes of the defendant.

2 As the government points out, lesser sentences do  
3 little to dissuade people, as lacking in good character or  
4 integrity as the defendant, from committing this type of  
5 crime.

6 The Eleventh Circuit noted that economic crimes  
7 are prime candidates for general deterrence and,  
8 unfortunately, supervised release does not assuage the  
9 Court's concerns about recidivism.

10 Financial fraud is precisely the type of crime  
11 that is difficult for probation officers to watch for and  
12 discover, and defendant has proved himself well able to come  
13 up with unique and sophisticated ways to defraud people.

14 There is a very significant risk that he will  
15 continue to do so when released. I'm fairly convinced that  
16 he will at least try to do so.

17 The government agreed to recommend a low-end  
18 sentence so long as the guidelines range was 32 and the  
19 Court did not depart downward in criminal history.

20 The government has complied with its obligation.  
21 I adopt the government's factual recitation and much of its  
22 reasoning but I do not adopt the government's recommendation  
23 or its conclusion from that reasoning that a low-end  
24 guideline sentence is appropriate.

25 I find that a four-level upward variance to Level

1 36 and a statutory maximum sentence of 240 months would be  
2 entirely reasonable for all of the reasons just stated and  
3 would be within a reasonable range based on the 3553(a)  
4 factors.

5           However, that sentence would provide no benefit to  
6 the defendant for his acceptance of responsibility. He did  
7 accept responsibility quickly. This saved the government  
8 time and money. But, more importantly, it allowed this  
9 matter to be resolved early so that victims can try to move  
10 on with their lives and avoid the time, stress, and  
11 aggravation that is inherent in pretrial and trial  
12 proceedings which they probably don't even recognize at this  
13 point and, therefore, I conclude that a somewhat lower  
14 sentence is appropriate.

15           Though as I said, variances are not required to be  
16 considered in terms of levels even with the criminal history  
17 category of I before a variance to Level 36 would result in  
18 a guidelines range with a midrange of 210 months.

19           If the government's position as to the obstruction  
20 of justice enhancement were correct, then I would not have  
21 applied the two-level variance for obstruction but I would  
22 still apply the two-level upward variance for the other  
23 reasons stated. The level would remain at 36 and I would  
24 still impose a mid-range sentence of 210 months.

25           I will now state the sentence but counsel will

1 have a final chance to make legal objections before sentence  
2 is imposed.

3 Does either counsel know of any reason why  
4 sentence should not now be imposed?

5 *(Defense counsel conferred.)*

6 MR. SCHWAB: Your Honor, the government knows of  
7 no such reason. I'll simply note, first off, the government  
8 maintains its recommendation of 135 months and, secondly, I  
9 believe if the Court were to vary upward to the equivalent  
10 of offense level 36 with the upward departure to criminal  
11 history -- to category II, the defendant's range would be  
12 210 to 240 months.

13 THE COURT: Thank you. Yes, I misspoke.

14 MR. THREATT: Your Honor, would you like me to  
15 note our objections now or after sentence is imposed?

16 THE COURT: You can go ahead and note them now.

17 MR. THREATT: Your Honor, just for the record  
18 we're reiterating our objection particularly to the  
19 substantial financial hardship and the variances imposed by  
20 the Court and that the Court sentence is substantively  
21 unreasonable particularly with those enhancements factored  
22 in.

23 THE COURT: All right. Thank you.

24 I find that the following sentence is reasonable  
25 and is sufficient but is no greater than necessary to comply

1 with the purposes stated in 18 United States Code,  
2 Section 3553(a) .

3 It is ordered that the defendant shall pay to the  
4 United States a special assessment of \$200 which is due  
5 immediately.

6 Any unpaid balance shall be due during the period  
7 of imprisonment at the rate of not less than \$25 per quarter  
8 and pursuant to the Bureau of Prisons' Inmate Financial  
9 Responsibility Program.

10 It is ordered that the defendant shall pay  
11 restitution in the total amount of \$35,267,851.98 to victims  
12 as set forth in a separate victim list prepared by the  
13 probation office which this Court adopts and which reflects  
14 the Court's determination of the amount of restitution due  
15 to each victim.

16 The victim list, which shall be forwarded by  
17 probation to the Fiscal Section of the clerk's office shall  
18 remain confidential to protect the privacy of the victims.

19 If defendant makes a partial payment, each payee  
20 shall receive approximately proportional payments.

21 Restitution shall be due during the period of  
22 imprisonment at the rate of not less than \$25 per quarter  
23 and pursuant to the Bureau of Prisons' Inmate Financial  
24 Responsibility Program.

25 If any amount of the restitution remains unpaid

1 after release from custody, nominal monthly payments of at  
2 least 10 percent of defendant's gross monthly income but not  
3 less than \$100, whichever is greater, shall be made during  
4 the period of supervised release and shall begin 90 days  
5 after the commencement of supervision.

6 Nominal restitution payments are ordered as the  
7 Court finds that the defendant's economic circumstances do  
8 not allow for either immediate or future payment of the  
9 amount ordered.

10 Interest on the restitution ordered is waived  
11 because the defendant does not have the ability to pay  
12 interest. Payments may be subject to penalties for default  
13 and delinquency pursuant to 18 United States Code, Section  
14 3612(g).

15 The defendant shall comply with Second Amended  
16 General Order 20-04. All fines are waived as the Court  
17 finds that the defendant has established that he's unable to  
18 pay and is not likely to become able to pay any fine.

19 Has there been an order of forfeiture requested,  
20 Mr. Schwab?

21 MR. SCHWAB: No, Your Honor. There's no seized  
22 assets in this instance.

23 THE COURT: Thank you.

24 Would you like a recommendation to medical  
25 facility, Counsel?

1           MR. THREATT: Yes, Your Honor. And specifically  
2 in Southern California if the Court is amenable to making  
3 that recommendation.

4           THE COURT: Which do you give preference to? I  
5 think, if his condition is as bad as they say, they're going  
6 to put him in a medical facility regardless but I can --

7           MR. THREATT: I believe that's right, Your Honor.  
8 I believe we'd prefer the recommendation for Southern  
9 California.

10          THE COURT: Okay. I'll make those  
11 recommendations.

12          Pursuant to the Sentencing Reform Act of 1984,  
13 it's the judgment of the Court that the defendant  
14 David Joseph Bunevacz is committed on Counts 1 and 2 of the  
15 Indictment to the custody of the Bureau of Prisons for a  
16 period of 210 months.

17          This term consists of 210 months on each of Counts  
18 1 and 2 of the Indictment to be served concurrently.

19          The Court recommends that the defendant be  
20 considered for the Bureau of Prisons residential drug abuse  
21 program or RDAP.

22          On release from imprisonment, the defendant shall  
23 be placed on supervised release for a term of three years.  
24 This term consists of three years on each of Counts 1 and 2  
25 of the Indictment. All such terms to run concurrently under



1 the following terms and conditions:

2 The defendant shall comply with the rules and  
3 regulations of the US Probation and Pretrial Services Office  
4 and Second Amended General Order 20-04 including the  
5 conditions of probation and supervised release set forth in  
6 Section 3 of Second Amended General Order 20-04.

7 2. The defendant shall refrain from any unlawful  
8 use of a controlled substance. He shall submit to one drug  
9 test within 15 days of release from custody and at least two  
10 periodic drug tests thereafter not to exceed eight tests per  
11 month as directed by the probation officer.

12 3. The defendant shall participate in an  
13 outpatient substance abuse treatment and counseling program  
14 that includes urinalysis, breath, or sweat-patch testing as  
15 directed by the probation officer.

16 He shall abstain from using alcohol and illicit  
17 drugs and from abusing prescription medications during the  
18 period of supervision.

19 4. During the course of supervision, the  
20 probation officer, with the agreement of the defendant and  
21 defense counsel, may place the defendant in a residential  
22 drug treatment program approved by the US Probation and  
23 Pretrial Services Office for treatment of narcotic addiction  
24 or drug dependency which may include counseling and testing  
25 to determine if the defendant has reverted to the use of

1 drugs. He shall reside in the treatment program until  
2 discharged by the program director and the probation  
3 officer.

4 5. As directed by the probation officer, the  
5 defendant shall pay all or part of the cost of the  
6 court-ordered treatment to the after-care contractors during  
7 the period of community supervision.

8 He shall provide payment and proof of payment as  
9 directed by the probation officer. If the defendant has no  
10 ability to pay, no payment shall be required.

11 6. During the period of community supervision,  
12 the defendant shall pay the special assessment and  
13 restitution in accordance with this judgment's orders  
14 pertaining to such payment.

15 7. He shall cooperate in the collection of a DNA  
16 sample.

17 8. He shall not be employed in any capacity  
18 wherein he has custody, control, or management of  
19 defendant's employer's funds.

20 9. He shall not engage as whole or partial owner,  
21 employee, or otherwise in any business involving loan  
22 programs, telemarketing activities, investment programs, or  
23 any other business involving the solicitation of funds or  
24 cold calls to customers without the express approval of the  
25 probation officer prior to engaging in such payment.

1 I'm going to add the approval of this Court is  
2 necessary.

3 Further, he shall provide the probation officer  
4 with access to any and all business records, client lists,  
5 and other records pertaining to the operation of any  
6 business owned in whole or part by the defendant as directed  
7 by the probation officer.

8 10. He shall not be self-employed nor be employed  
9 in a position that does not provide regular paystubs with  
10 the appropriate deductions for taxes unless approved by the  
11 probation officer.

12 11. He shall apply all monies received from  
13 income tax refunds, lottery winnings, inheritance,  
14 judgments, and any other financial gains to the  
15 court-ordered obligation.

16 This condition should not be read to suggest that  
17 I approve of him spending any money on lotteries. Indeed,  
18 he's not to do so. However, if someone else wanted to buy  
19 him a ticket and give it to him, that would be, I suppose,  
20 none of the Court's business.

21 12. The defendant shall submit the defendant's  
22 person, property, house, residence, vehicle, papers,  
23 computers, cellphones, other electronic communications, or  
24 storage devices or media, email accounts, social media  
25 accounts, cloud storage accounts, or other areas under his

1 control to a search conducted by a US Probation Officer or  
2 law enforcement officer.

3 Failure to submit to a search may be grounds for  
4 revocation. The defendant shall warn any other occupants  
5 that the premises may be subject to searches pursuant to  
6 this condition.

7 Any search pursuant to this condition will be  
8 conducted at a reasonable time and in a reasonable manner on  
9 reasonable suspicion that the defendant has violated a  
10 condition of his supervision and that the areas to be  
11 searched contain evidence of this violation.

12 13. He shall participate in a program for  
13 gambling treatment which may include evaluation and  
14 counseling as directed by the probation officer until  
15 discharged from the program by the service provider with the  
16 approval of probation officer.

17 The Court authorizes the Probation and Pretrial  
18 Services Office to disclose the presentence report to the  
19 substance abuse treatment provider to facilitate the  
20 defendant's treatment for narcotic addiction or drug  
21 dependency.

22 Further re-disclosure of the presentence report by  
23 the treatment provider is prohibited without the consent of  
24 this Court.

25 The defendant is remanded to the custody of the

1 US Marshal.

2 Does either counsel have anything further?

3 MR. SCHWAB: Your Honor, in the interest of  
4 justice, the government moves to dismiss the remaining  
5 counts of the Indictment.

6 THE COURT: Granted.

7 MR. THREATT: Nothing further from the defense,  
8 Your Honor.

9 THE COURT: Thank you.

10 The statement of reasons shall be included in the  
11 Commitment Order and Judgment and shall be provided to the  
12 probation office, the Sentencing Commission, and the Bureau  
13 of Prisons.

14 A complete copy of the presentence report shall be  
15 provided to the Bureau of Prisons. That includes the  
16 changes I made. Any other copies of the report and related  
17 materials shall remain confidential.

18 The Sentencing Commission gets a copy as well.

19 If an appeal is taken, Counsel on appeal shall  
20 have access to the report.

21 Sir, you have a right to appeal your conviction if  
22 you believe that your guilty plea was somehow unlawful or  
23 involuntary or if there's some other fundamental defect in  
24 the proceedings that was not waived by your guilty plea.

25 You also have a right to appeal your sentence

1 under some circumstances particularly if you think your  
2 sentence is contrary to law.

3 You have entered into a plea agreement that waives  
4 some or all of your right to appeal your conviction and  
5 other issues. Such waivers are generally enforceable. The  
6 plea agreement controls your right to appeal and if you  
7 believe the waiver is unenforceable, you can present that  
8 theory to the Court of Appeals.

9 This sentence exceeds the sentence in the appeal  
10 waiver so you do have a right to appeal that sentence to the  
11 extent described in the plea agreement.

12 To the extent you retained any right to appeal,  
13 with few exceptions the Notice of Appeal must be filed  
14 within 14 days of judgment being entered.

15 Do you understand that, sir?

16 THE DEFENDANT: Yes, Your Honor.

17 THE COURT: If you're unable to afford a  
18 transcript of the record in this case, one will be provided  
19 at government expense.

20 If you're unable to pay the cost of an appeal or a  
21 filing fee, you may apply for leave to appeal *In Forma*  
22 *Pauperis*.

23 If you do not have counsel to act on your behalf  
24 and if you request it, the Clerk of the Court will prepare a  
25 Notice of Appeal on your behalf.

1           You must make that request within 14 days.

2           The Notice of Appeal must designate the judgment  
3 or order appealed from and the fact that you're appealing to  
4 the Court of Appeals. It should designate the portion of  
5 the proceedings not already on file that you deem necessary  
6 for the reporter to include.

7           Anything further?

8           MR. SCHWAB: No, Your Honor. Thank you very much.

9           MR. THREATT: No, Your Honor. Thank you.

10          THE COURT: All right. Thank you.

11          THE CLERK: Court's in recess.

12          *(At 10:28 a.m., proceedings were concluded.)*

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**CERTIFICATE**

I, PAT CUNEO, CSR 1600, hereby certify that pursuant to Section 753, Title 28, United States Code, the foregoing is a true and correct transcript of the stenographically reported proceedings held in the above-entitled matter and that the transcript page format is in conformance with the regulations of the Judicial Conference of the United States.

Date: December 13, 2022

/s/

PAT CUNEO, OFFICIAL REPORTER  
CSR NO. 1600



{PLAINTIFF} v.  
{DEFENDANT}{WITNESSNAME}  
{DATE}

<b>MR. SCHWAB: [11]</b> 3/9 10/7 10/10 10/13 18/13 28/7 43/22 53/6 55/21 61/3 63/8 <b>MR. THREATT: [17]</b> 3/11 4/3 4/5 4/8 5/3 5/6 5/10 5/17 8/4 15/4 15/7 53/14 53/17 56/1 56/7 61/7 63/9 <b>MR. WASSERMAN: [1]</b> 3/16 <b>THE CLERK: [2]</b> 3/3 63/11 <b>THE COURT: [53]</b> 3/15 3/17 4/4 4/6 4/9 4/12 4/15 4/17 4/20 4/23 4/25 5/4 5/9 5/15 8/3 9/22 10/6 10/9 10/11 15/2 15/6 18/11 18/16 18/21 19/1 19/4 19/6 19/10 24/3 24/5 24/8 24/10 28/5 28/11 28/14 32/6 32/16 33/5 33/11 34/16 38/9 38/12 43/24 53/13 53/16 53/23 55/23 56/4 56/10 61/6 61/9 62/17 63/10 <b>THE DEFENDANT: [8]</b> 4/11 4/14 4/16 4/19 4/22 4/24 10/5 62/16 <b>THE WITNESS: [1]</b> 18/20 <b>VICTIM B.S.: [1]</b> 34/18 <b>VICTIM C.C.: [2]</b> 32/8 32/17 <b>VICTIM G.H.: [3]</b> 24/6 24/9 24/11 <b>VICTIM I.C.: [2]</b> 33/7 33/12 <b>VICTIM S.S.: [6]</b> 18/22 19/3 19/5 19/9 19/11 24/4 <b>VICTIM T.D.: [2]</b> 28/12 28/15  <b>\$</b> <b>\$1 [3]</b> 22/9 22/14 22/21 <b>\$1 million [1]</b> 22/14 <b>\$1.35 [1]</b> 22/21 <b>\$1.35 million [1]</b> 22/21 <b>\$100 [1]</b> 55/3 <b>\$185,000 [1]</b> 39/1 <b>\$200 [2]</b> 43/19 54/4 <b>\$25 [2]</b> 54/7 54/22 <b>\$3 [1]</b> 25/9 <b>\$3 million [1]</b> 25/9 <b>\$3,500,000 [1]</b> 23/23 <b>\$3.5 [5]</b> 21/4 21/19 22/15 22/19 23/5 <b>\$3.5 million [4]</b> 21/4 21/19 22/19 23/5 <b>\$35,267,851.98 [1]</b> 54/11	<b>\$402,000 [1]</b> 11/10 <b>\$5,000 [1]</b> 26/8 <b>\$80,000 [2]</b> 25/22 25/25 <b>\$88,000 [1]</b> 39/2  - 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